



Minnesota Department of Administration Office of Grants Management

Operating Policy and Procedure

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Conflict of Interest Policy for State Grant-Making

This policy assumes adherence to the Code of Ethics for Employees in the Executive Branch ([Minn. Stat. §43A.38](#)), as well as to the following statutes:

[Minn. Stat. §10A.07](#) - Conflicts of Interest

[Minn. Stat. §15.43](#) - Acceptance of Advantage by State Employee; Penalty

[Minn. Stat. §16C.04](#) - Ethical Practices and Conflict of Interest

[Minn. Stat. §471.87](#) - Public Officers, Interest in Contract; Penalty

[Minn. Stat. §16B.97](#) - Grants Management

[Minn. Stat. §16B.98](#) – Grants Management Process

Policy

Minn. Stat. §16B.97 Subd. 4(a)(1) provides that the Commissioner of Administration shall “create general grants management policies and procedures that are applicable to all executive agencies.”

Minnesota state agencies, executive branch boards, committees, authorities, task forces, and councils must work to deliberately avoid actual and potential conflicts of interest related to grant-making and grant administration at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it.

Every grant reviewer for competitive grants processes shall be responsible for identifying where an actual or potential conflict of interest exists and for informing appropriate parties. All grant reviewers involved in the review of competitive grant applications must complete and sign a conflict of interest disclosure form for each competitive grant review in which they participate.

State agencies and employees must take steps to avoid, minimize or otherwise reduce the impacts of actual or potential conflicts of interest.

Scope of Coverage

This policy applies to the following processes:

- **Competitive grant-making** at all executive branch agencies, boards, committees, councils, authorities, and task forces which includes:
 - Developing grant request for proposals for competitive grant processes

- Reviewing and evaluating competitive grant proposal responses
- **Grant administration** at all executive branch agencies which includes:
 - Awarding a grant, drafting, entering in to, amending or revising grant agreements, conducting grant monitoring, evaluating grant performance, and authorizing payments

This policy applies to all executive branch agencies, boards, committees, councils, authorities, and task forces involved with external grant administration.

Executive branch agencies, boards, committees, councils, authorities, and task forces can choose to expand the scope of coverage based on their grant-making and grant administration processes.

This policy supersedes other state agency policies that concern conflicts of interest relating to outgoing grants except when the existing state agency policy, law, administrative rule, or other authority is stricter. Executive branch agencies should reference [HR/LR Policy #1445 Code of Ethical Conduct](#) to understand and implement the requirements for executive branch employees (state employees).

Current state grantees are expected to follow their own documented conflict of interest policy and procedures.

Grant programs that seek an exception to this policy must complete a Grants Policy Exception Request and submit it to the Office of Grants Management for the approval of the Commissioner of Administration.

Minimum Requirements

1. Competitive Grant Making

A. Developing Requests for Proposal

- State employees involved with developing requests for proposals for competitive grant processes should reference and follow [HR/LR Policy #1445 Code of Ethical Conduct](#), and their agency's established policies and procedures for code of conduct, code of ethics, or grant conflict of interest.
- Appointed members serving on an executive branch board, committee, authority, task force, and council members involved with developing requests for proposals for competitive grant processes must follow their established policy, procedure, or by-laws established for code of conduct, code of ethics, financial disclosures, or grant conflict of interest, including OGM Policy 08-01.
- The grant-making entity must maintain the documentation.
 - For financial disclosures for public officials per [Chapter 10A](#), the grant-making entity must document they've reviewed the disclosures.

B. Competitive Grant Review

- All grant reviewers must complete and sign a conflict of interest disclosure form for each competitive grant review in which they participate.
 - Grant reviewers who are state employees should reference and follow [HR/LR Policy #1445 Code of Ethical Conduct](#)
 - Public officials must use the Grant Conflict of Interest disclosure form. The [Minn. Stat. §10A.09](#) economic disclosure form cannot be used as a substitute.

- Please reference definition of grant reviewer on page 3.
- The grant-making entity must maintain the documentation.

2. Grant Administration

- All state employees directly or indirectly involved in grant administration (as defined in scope of coverage) must follow their state agency policy and procedures established for code of conduct, code of ethics, or grant conflict of interest, including [HR/LR Policy #1445 Code of Ethical Conduct](#) and OGM Policy 08-01.
- The state agency must maintain the documentation.

Definitions:

Grant:

A grant is the transfer of cash or something of value to a recipient to support a public purpose authorized by law.

Grant Reviewer:

A grant reviewer is a person that evaluates competitive grant proposals. Grant reviewers include state employees, appointed members serving on an executive branch board, committee, authority, task force, and council and community members.

Conflict of Interest:

A conflict of interest occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it.

- **Actual Conflict of Interest:**
An actual conflict of interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.
- **Potential Conflict of Interest:**
A potential conflict of interest may exist if a person has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

Immediate Family member:

A spouse, domestic partner, parent, sibling, child, in-law, or other relative living in the home.

Individual Conflict of Interest:

A conflict of interest that may benefit an individual employee or a grant reviewer is any situation in which their judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to an immediate family member, business, or organization with which they are involved.

An individual conflict of interest occurs when any of the following conditions are present:

- a) A state employee or a grant reviewer uses their status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

- b) A state employee or a grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.
- c) A state employee or a grant reviewer is an employee or board member of a grant applicant or grantee or is an immediate family member of an owner, employee or board member of the grantee or grant applicant.

Instances in which:

- The state employee or grant reviewer works in a volunteer capacity for a grant applicant or grantee organization
- The state employee represents the state agency on a stakeholder board

should be evaluated on a case-by-case basis.

Volunteer status has the potential to but does not necessarily create a conflict of interest, depending on the nature of the relationship between the two parties.

Procedures to Avoid, Address, and Resolve Individual Conflicts of Interest:

1. All grant reviewers must complete and sign a conflict of interest disclosure form for each competitive grant review in which they participate. On the conflict of interest disclosure form, each grant reviewer must identify any grant applicant with which they have an actual or potential conflict of interest. The grant reviewer may choose to provide the context for the actual or potential conflict of interest; however, this is not required.
2. Grant reviewers who are state employees must act immediately upon disclosing or being notified that a conflict of interest exists in the competitive grant review process. Upon identification, such matters are referred to appropriate agency or grant program personnel (the employee's immediate supervisor, RFP contact person, or grant program manager) for additional discussion to identify and reduce any potential conflicts. If the conflict involves the state employee's immediate supervisor, grant program manager, or RFP contact person, the state employee or grant reviewer should instead contact the agency's ethics officer or a manager, director, assistant/deputy commissioner, or agency head.
3. Grant reviewers who are community members that identify a conflict of interest must follow the steps the executive branch agency has in place to address and resolve the conflict of interest.
4. Grant reviewers that are not state employees and involved in the competitive grant review process as a function of their appointment/membership to an executive branch board, committee, authority, task force, and council should choose one of these options for disclosing, reviewing, and discussing the nature of the conflict:
 - Refer and discuss with an appropriate state agency or executive branch program personnel.
 - Follow their approved board, committee, authority, task force, or council's by-laws. Public officials must use this policy's definitions for decision-making on disclosure for competitive grant review.
5. If it is determined that an actual or potential-conflict of interest exists, as defined by this policy or other relevant law, appropriate steps must be taken to avoid, address or resolve the conflict. These steps may include:
 - Reassigning the duties associated with that particular applicant, grant or grantee to another employee or grant reviewer
 - Requiring the state employee or grant reviewer to remove themselves from the discussion or

decision about an applicant(s) that is affected by the conflict and avoid discussing the applicant and/or applications from organizations with which the reviewer has disclosed a conflict of interest with other reviewers

- At a minimum, all state employees who are involved in the competitive grant review process must be made aware that an actual *or* potential-conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer.
6. Any disclosed conflicts and their resolution should be noted in meeting minutes, documents, or records that the state agency and executive branch board, committee, authority, task force, and council maintains as a regular part of its grants process.

Organizational Conflict of Interest:

A conflict of interest can also occur with an organization that is a grant applicant in a-competitive grant process or grantee of a state agency.

Organizational conflicts of interest occur when:

- A grantee's objectivity in carrying out the grant is impaired or compromised due to competing duties or loyalties
- A grantee, potential grantee or grant applicant has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Particular attention should be paid to any proposed grant contract agreement requirements that provide for the rendering of planning, consultation, evaluation, or similar activities that may inform decisions on future grant awards.

Procedures to Avoid Organizational Conflicts of Interest:

1. Conflicts of interest should be prevented as early in the competitive grants process as possible. This includes writing requests for proposals in a manner that avoids conflicts and creates a level playing field for all grant applicants. Agencies may also consider including questions as part of the Request for Proposal (RFP) process to identify how potential grant applicants manage conflicts of interest, which may include information such as the applicant's conflict of interest policies or procedures.
2. If an organizational conflict of interest is in question, disclosed or discovered agency staff must immediately notify the agency's ethics officer or a supervisor, manager, director, assistant/deputy commissioner or commissioner.
3. In cases where an organizational conflict of interest is in question, disclosed or discovered, the grantee or grant applicant should be notified by the state agency regarding the actual *or* potential conflict and allowed a reasonable opportunity to respond. Based on a review of the response and other relevant facts, one of the following actions may be pursued:
 - The potential grantee is disqualified from eligibility for the grant award
 - A current grantee's grant contract agreement or notice of grant award is amended or terminated
 - The grantee is disqualified from subsequent state grant awards if it is determined that it improperly failed to disclose a known organizational conflict of interest or misrepresented information regarding such a conflict

- The responsibility for the grant or grant program is reassigned to a different state employee
- Actions should be taken to reduce or neutralize actual or potential organizational conflicts of interest. This may include: revising the grantee's duties so that the conflict is reduced; allowing the grantee to propose the exclusion of task areas that create a conflict, if appropriate; asking the grantee to submit an organizational conflict of interest avoidance or mitigation plan; or making all information available to all grantees and/or potential grantees in order to eliminate favoritism toward any one grantee